

CITY CLERK
(712) 328-4616

AGENDA

**CITY COUNCIL STUDY SESSION
COUNCIL CHAMBERS
MONDAY, January 14, 2008
3:45 P.M.**

1. Cool Cities Presentation
2. Discussion of Offer to Buy City Property
3. Review of Agenda



COUNCIL COMMUNICATION

Department: Public Works

Ordinance No. _____

First Reading January 14, 2008

Case/Project No.: _____

Resolution No. _____

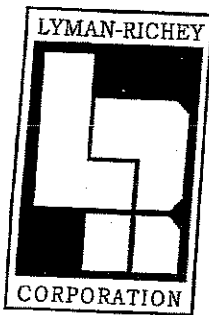
Applicant _____

SUBJECT/TITLE

Disposal of 1.6 acres of city owned land adjacent to Lyman Richey Concrete Plant near the Council Bluffs Police Firing Range.

BACKGROUND/DISCUSSION

- Lyman Richey requests the City of Council Bluffs sell one acre of city owned ground. The ground was purchased by the Sewer Department for land application of sludge.
- Since the purchase of the ground, the sewer treatment plant has converted to a dewatering process for sludge management. The dewatering process reduces the volume of sludge and allows longer temporary storage on concrete pads instead of in the digesters. The pad storage better accommodates the coordination of land application of sludge on farm fields. In general farm fields can only receive sludge before planting and after harvest.
- This city site is about 57 acres less about 15 acres occupied by the Police Training Facility. The ground is not critical to the sludge management program but does serve as an emergency back-up for sludge disposal.
- The area has seen significant interest lately for redevelopment. The concrete plant may or may not be compatible with new and potential uses in the area.
- Consideration should be given to the kind of user most desirable.
- Consideration should be given to the adjacent police training facility.
- Consideration should be given on the value of the land.



LYMAN-RICHEY CORPORATION

Lyman-Richey Sand & Gravel Company
Ready Mixed Concrete Co.
Central Sand and Gravel Company
Gerhold Concrete Company, Inc.
United Products Company

September 26, 2007

Richard B. Wade
City Attorney
City of Council Bluffs, IA
209 Pearl Street
Council Bluffs, IA 51503

Re: City Property East of 10001 192nd Street, Council Bluffs, IA

Dear Dick:

Please consider this letter an offer to purchase approximately 1.6 acres located parallel to and immediately adjacent to the eastern edge of our existing property located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 32, Township 72 North, Range 43 West of the 5th P.M. in Pottawattamie County, IA. This area extends from our property line approximately 200 feet east.

We are offering to pay the City of Council Bluffs \$10,000/acre based upon the following contingencies:

- (1) We would obtain, at our own expense, a boundary survey showing all improvements, easements, and encroachments.
- (2) We are able to obtain the same sort of zoning for the property as we currently have for our existing property.
- (3) We have access to the property to evaluate it for our intended use of the property.
- (4) If it is necessary to subdivide the property from the City's remaining property, the City would need to complete the subdivision at its own expense.
- (5) We would have a Phase I environmental inspection of the property at our expense. If the inspection discloses the presence of any hazardous substances, the City would have the option to remediate the hazardous substances. Whether or not the City elects to remediate, we would have the option to proceed to close and purchase the property, as is, or to terminate the Agreement. In addition, we would ask the City to provide an environmental representation and warranty common in transactions of this type.

If there are any assessments on the property for public improvements serving and/or adjacent to the property, the assessments would be paid by the City.

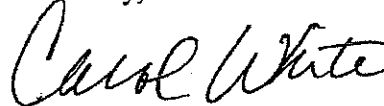
We would like to close on the property within 30 days after all contingencies have been met.

Please let us know if the City accepts this offer to purchase. We can then proceed to prepare and execute an appropriate purchase agreement.

Should you have any questions or need additional information, please give me a call. I've enclosed my business card for your reference.

Thank you for your consideration.

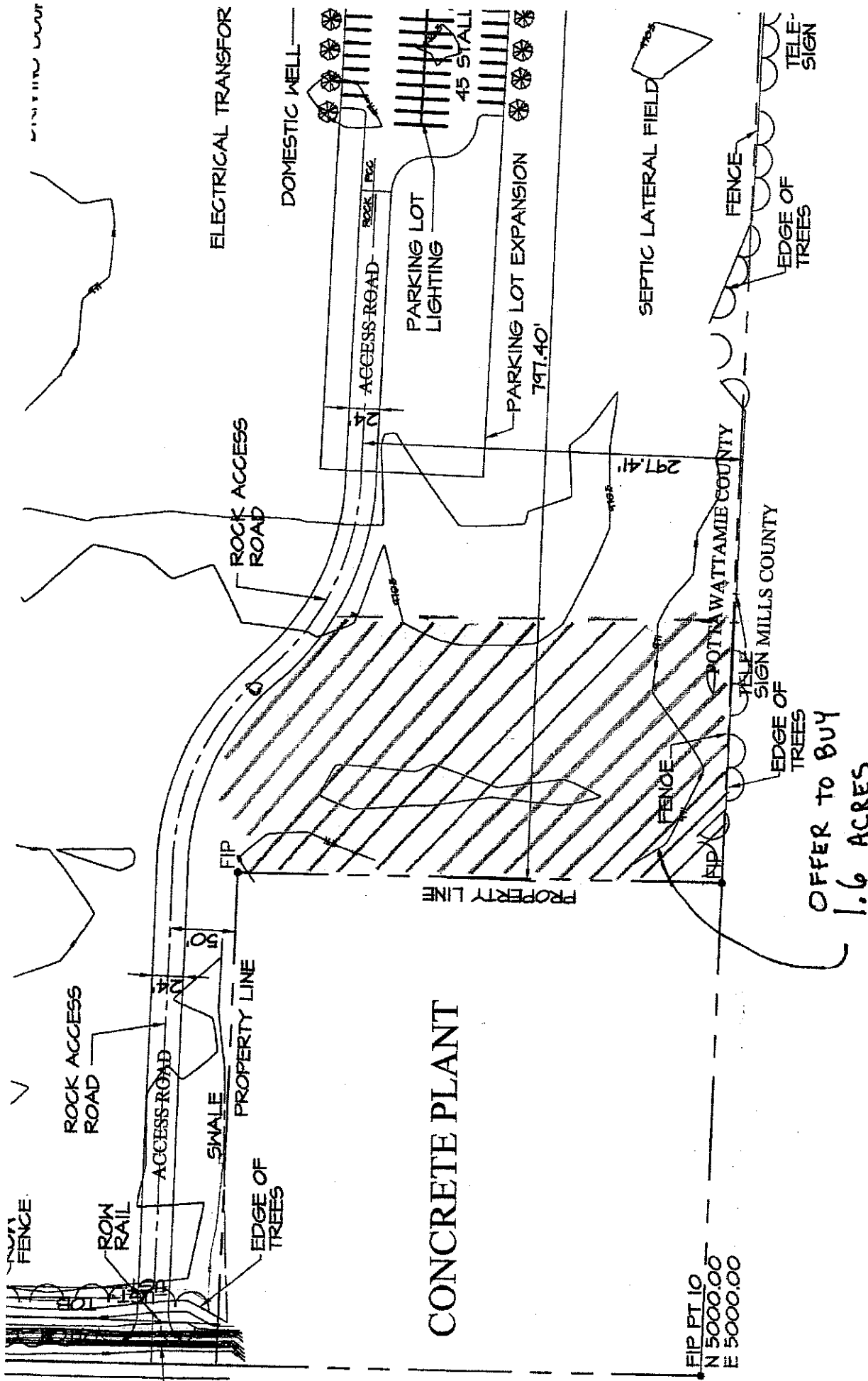
Sincerely,

A handwritten signature in cursive script that reads "Carol White". The signature is written in dark ink and is positioned above the printed name and title.

Carol White
Real Estate Administrator

cc: Kevin Schmidt

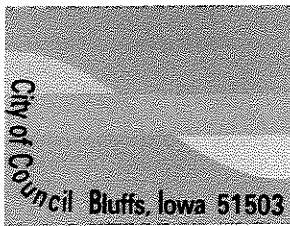




1 SITE PLAN

SCALE: 1" = 100'





CITY CLERK
(712) 328-4616

**COUNCIL AGENDA, CITY OF COUNCIL BLUFFS, IOWA
REGULAR MEETING JANUARY 14, 2008 7:00 P.M.
COUNCIL CHAMBERS, 2ND FLOOR, CITY HALL
209 PEARL STREET**

1. PLEDGE OF ALLEGIANCE

2. CALL TO ORDER

3. CONSENT AGENDA

- A. Approval of agenda and tape recording of this proceeding be incorporated into official minutes;
- B. Reading, correction and approval of minutes of the December 10, 2007 regular Council meeting;
- C. Reading, correction and approval of minutes of the December 19, 2007 special Council meeting;
- D. Resolution 2008-01, intent to grant an easement in the Peal Street and South Main Street rights-of-way and setting a public hearing for January 28, 2008 at 7:00 p.m.; and
- E. Resolution 2008-02, directing the clerk to publish notice and set public hearing for January 28, 2008 at 7:00 p.m. on the plans, specifications, form of contract and cost estimate for the 10th Avenue Storm Sewer Improvements.

4. PUBLIC HEARINGS

- A. Resolution 2008-03, granting final plat approval for Hy-Vee at West Broadway Subdivision
- B. Resolution 2008-04, granting final plat approval for a 21-lot subdivision to be known as Gethsemane Gardens

5. ORDINANCES ON SECOND READING:

- A. Ordinance 5959, to amend Chapter 1.40, "Council Bluffs Civil Rights Commission", of the Municipal Code of Council Bluffs by repealing and reenacting Section 1.40.040 "Establishment, membership and organization"

6. ORDINANCES ON FIRST READING:

- A. Ordinance 5960, amending Chapter 9.12 "Bicycles" of the Municipal Code of Council Bluffs by amending Section 9.12.010 "Definitions", to include an additional definition of bicycle, as set forth in the State Code
- B. Ordinance 5961, amending the zoning map of the City of Council Bluffs by changing the district designation of certain grounds located between Avenue A and Avenue B in Council Bluffs, Iowa from North 28th Street to North 29th Street from its present designation as R-2/two family residential and R-3/low density multi-family residential to



A-2/Parks, estates and agricultural, as set forth and defined in the Municipal Code of Council Bluffs and setting a public hearing for January 28, 2008 at 7:00 p.m.

- C. Ordinance 5962, amending the zoning map of the City of Council Bluffs by changing the district designation of certain grounds located on the south side of Avenue A between North 28th and North 29th Streets in Council Bluffs, Iowa from its present designation as C-2/Commercial to R-3/Low density multi-family residential, as set forth and defined in the Municipal Code of Council Bluffs and setting a public hearing for January 28, 2008 at 7:00 p.m.
- D. Ordinance 5963, amending Chapter 15.24 "Supplemental Use and Site Development Regulations" of the Municipal Code by repealing and reenacting Section 15.25.040 "Fence Regulations" and Section 15.24.070 "Height exceptions" and setting a public hearing for January 28, 2008
- E. Ordinance 5964, amending Title 2 "Revenue and Finance" of the Municipal Code by repealing Chapter 2.06, "Partial Property Tax Exemptions for Industrial Property" in its entirety
- F. Ordinance 5965, amending Chapter 1.68 "Council Bluffs Airport Authority" of the Municipal Code by repealing Section 1.68.020 "Board" and enacting a new Section 1.68.020 "Board" to establish a stagger in the member's terms.
- G. Ordinance 5966, amending Chapter 4.50 "Noise Control" of the Municipal Code of Council Bluffs by repealing Section 4.50.080 "Sound levels by receiving land use" and enacting a new Section 4.50.080 "Sound levels by receiving land use"
- H. Ordinance 5967, amending Chapter 16.04 "Historic Preservation Commission" of the Municipal Code of Council Bluffs by amending Section 16.04.040 "Appointments"

7. RESOLUTIONS:

- A. Resolution 2007-346, authorizing City officials to endorse checks, notes, drafts, bills of exchange and acceptances on behalf of the City in connection with its accounts at Peoples National Bank, Midstates Bank, US Bank, Liberty Bank and Council Bluffs Savings Bank
- B. Resolution 2007-458, authorizing the Mayor to execute an agreement with Prine LLC to provide concessionaire services for the Dodge Riverside Golf Club and the Council Bluffs Recreation Complex
- C. Resolution 2007-459, authorizing the Mayor to execute an agreement with the Historical General Dodge House, Inc., and the Historic General Dodge House Foundation, Inc.
- D. Resolution 2008-05, to adopt a Planned Commercial Development Plan for Lot 4, Bluffs Vision Subdivision Replat 1, to construct a restaurant west of South 29th Street between 23rd and 24th Avenues
- E. Resolution 2008-06, authorizing the Mayor to execute a real estate contract to acquire a 2.27 acre parcel in the 100 block of South 34th Street owned by MEK Enterprises LLC as part of the West Broadway Urban Renewal Area Project

- F. Resolution 2008-07, authorizing the Mayor and City Clerk to execute an agreement with Insituform Technologies USA, Inc. for the First Stage Trickling Filter No. 2 – 42" influent pipe lining
- G. Resolution 2008-08, approving the Council Bluffs Water Works Water Main Extension Agreement for a water main extension on 10th Avenue in connection with the Public Works Fleet Maintenance Facility
- H. Resolution 2008-09, accepting the work of Peterson Contractors, Inc., in connection with the Avenue G Viaduct/Corridor Project and authorizing the Interim Finance Director to issue a City check in the amount of \$28,345.66
- I. Resolution 2008-10, approving the Memorandum of Understanding among FHWA, IDOT, Pottawattamie County and the City of Council Bluffs in connection with the environmental impact statement for the East Beltway Project
- J. Resolution 2008-11, approving Change Order #2 for the Metro Crossing Sewer Extension Schedule B (pump station) adding \$7,929.00 to the original contract amount
- K. Resolution 2008-12, accepting the work of Leazenby Construction in connection with the Metro Crossing Sewer Extension, Phase I Schedule A (sewer extension) and authorizing the Interim Finance Director to issue a City check in the amount of \$26,698.74
- L. Resolution 2008-13, authorizing the Mayor and City Clerk to execute an agreement with TAB Construction Co., for the Stormwater Management – sewer – Big Lake Bridge
- M. Resolution 2008-14, approving Change Order #2 for the Valley View Drive Extension, Project No. 1, adding \$17,604.18 to the original contract amount
- N. Resolution 2008-15, approving a three-year labor contract between the City of Council Bluffs and the Fraternal Order of Police, Lodge #1
- O. Resolution 2008-16, authorizing the Mayor to execute an Order Accepting the Acknowledgement/Settlement Agreement from Gas-Mart USA, dba Eddy's 503 for a violation of Iowa Code Section 453A.2(1)

8. MAYOR APPOINTMENTS

- A. *Community Development Advisory Committee*
Re-appoint Mark Norman, Matt Madsen, Richard Heininger; terms to expires 12/3/2011
- B. *Council Bluffs Arena and Convention Center Commission*
Appoint Mark Osterhous; term to expire 7/1/08
Re-appoint Verne Welch, Chuck Smith; terms to expire 7/1/2010
- C. *Board of Electrical Examiners*
Re-appoint Kris Hartman; term to expire 9/1/2011

- D. *Historical Preservation Commission*
Appoint Beth Lindquist; term to expire 12/31/2010
- E. *Local Board of Health*
Re-appoint Dr. Alan Fisher, Dr. Dennis Jones; terms to expire 12/31/2010
- F. *Housing Board of Appeals*
Reappoint Harry Crowl; term to expire 01/01/2013
- G. *Civil Rights Commission*
Appoint Bruce Wallace; term to expire 08/01/2008
- H. *Board of Mechanical Appeals*
Re-appoint Mark Schiller; term to expire 09/23/2010
- I. *City Planning Commission*
Appoint Bill Hartman; term to expire on 04/01/2012

9. RECEIVE AND FILE ITEMS:

- A. Cash Balance Statement, November 30, 2007
- B. List of Bills, November 30, 2007
- C. Five Notice of Claim/Loss
- D. One application for renewal of Rubble Dump license, Anderson Excavating
- E. Two applications for renewal of Storage Yard License:
 - 1) Arrow Towing, Inc
 - 2) Bogdan Construction
- F. Seven applications for renewal of Salvage Yard License:

1) Alter Recycling	5) CMET Controlled Materials
2) Bluffs Auto Parts	6) Millennium Rail Inc.
3) City of Council Bluffs	7) Schildberg Construction
4) CMET Controlled Materials	

10. CITIZENS LETTERS:

Friends of Lake Manawa

11. APPLICATIONS FOR PERMITS AND CANCELLATIONS:

- A. Four applications for liquor license renewal

1) Andrews Lounge	3) Lightening Bowl
2) Red Onion Restaurant	4) Hampton Inn @Ameristar

12. CITIZENS REQUEST TO BE HEARD:

13. ADJOURNMENT

RECORD OF PROCEEDINGS

CALL TO ORDER A special meeting of the Council Bluffs City Council was called to order by Mayor Tom Hanafan at 1:00 p.m. on Wednesday, December 19, 2007.

ATTENDANCE Present: Councilmembers Darren Bates, Scott Belt, Lynne Branigan, Matt Schultz, Matt Walsh. Mayor Tom Hanafan
Staff Present: City Attorney Richard Wade, City Clerk Judith Ridgeley.

CONSENT AGENDA Bates and Belt moved and seconded approval of the Consent Agenda as read. Unanimous.

RESOLUTIONS
Resolution 07-463 Bates and Branigan moved and seconded approval of Resolution 07-463, authorizing Mayor to enter into agreement for provision of hazardous materials response services by the Council Bluffs Fire Department with the Pottawattamie County Emergency Management Commission.

Bates and Branigan moved and seconded to amend Resolution 07-463 to provide for a certain time, February 1, 2008, for the County to sign the agreement.

Bates and Branigan moved and seconded to amend the agreement to provide for indemnity covered in Section 9.B. to also include limitations in Section 9.C.(2). After discussion, Bates moved to withdraw the amendment to the agreement, Branigan concurred.

Voice vote on amendment to the Resolution: 5 Aye
Voice vote on Resolution as amended: 5 Aye

Resolution 07-464 Bates and Schultz moved and seconded approval of Resolution 07-464, authorizing the Mayor to enter into a memorandum of understanding with the State of Iowa, Department of Public Defense, Homeland Security and Emergency Management Division for hazardous materials response to terrorism or weapons of mass destruction incidents. Unanimous

APPLICATIONS FOR PERMITS OR CANCELLATIONS Walsh and Schultz moved and seconded approval of the following applications:

Application for renewal of liquor license
Country 'N More, Great Wall, Lake Manawa Convenience, McGees, Target Corporation;

Application for new liquor license
U-Stop #19, U-Stop #20, Cal's Food and Gas

Application for refund of unused license
No Frills Supermarket

Application for retail cigarette/tobacco permit
GasMart USA, Inc., dba Cal's Food and Gas

Unanimous

EXECUTIVE SESSION Schultz and Branigan moved and seconded to go into Executive

RECORD OF PROCEEDINGS

Session at 1:33 p.m. Unanimous. Bates left the Executive Session at 1:33 p.m.

Schultz and Branigan moved and seconded to come out of Executive Session at 2:14 p.m. Unanimous

ADJOURNMENT

There being no further business to come before City Council, Belt and Schultz moved and seconded to adjourn at 2:15 p.m. Unanimous

The tape recording of this proceeding, though not transcribed, is part of the record of each respective action of the Council. The tape recording of this proceeding is incorporated into these official minutes of this Council meeting as if they were transcribed herein.

Thomas P. Hanafan, Mayor

ATTEST:

Judith H. Ridgeley, City Clerk

RECORD OF PROCEEDINGS

CALL TO ORDER	A regular meeting of the Council Bluffs City Council was called to order by Mayor Tom Hanafan at 7:00 p.m. on Monday, December 10, 2007.
ATTENDANCE	Present: Councilmembers Darren Bates, Scott Belt, Lynne Branigan, Matt Schultz, Matt Walsh. Mayor Tom Hanafan Staff Present: City Attorney Richard Wade, City Clerk Judith Ridgeley.
CONSENT AGENDA	Belt and Bates moved and seconded approval on the Consent Agenda as read. Unanimous.
PUBLIC HEARINGS Ordinance 5956	Held public hearing regarding Ordinance 5956, amending Chapter 15.03 of the Municipal Code. Branigan and Belt moved and seconded approval of Ordinance 5956. Unanimous Schultz and Branigan moved and seconded to waive third reading of Ordinance 5956. Unanimous
Ordinance 5957	Held public hearing regarding Ordinance 5957, amending Chapter 15.21 of the Municipal Code. Walsh and Schultz moved and seconded approval of Ordinance 5957. Unanimous Schultz and Belt moved and seconded to waive third reading of Ordinance 5957. Unanimous
Ordinance 5958	Held public hearing regarding Ordinance 5958, amending Chapter 15.22 of the Municipal Code. Walsh and Schultz moved and seconded approval of Ordinance 5958. Unanimous Branigan and Belt moved and seconded to waive third reading of Ordinance 5958. Unanimous
Resolution 07-462	Held public hearing for Resolution 07-462, adoption of the Playland Park Master Plan. Bates and Branigan moved and seconded approval of Resolution 07-462. VOICE VOTE: 4 Aye, 1 Nay (Belt)
Resolution 07-448	Held public hearing for Resolution 07-448, approving the plans, specification, form of contract and cost estimate for South 13 th Street Improvements, Phase III. Belt and Bates moved and seconded approval of Resolution 07-448. Unanimous
ORDINANCES ON FIRST READING Ordinance 5959	Branigan and Walsh moved and seconded introduction of Ordinance 5959, amending Chapter 1.40 of the Municipal Code, Council Bluffs Civil Rights Commission and approval of the ordinance on first reading. Unanimous
RESOLUTIONS Resolution 07-449	Branigan and Bates moved and seconded approval of Resolution 07-449 authorizing the Mayor to execute a Memorandum of Understanding with Midlands Humane Society. Unanimous
Resolution 07-450	Belt and Walsh moved and seconded approval of Resolution 07-450, executing an agreement with Fox Engineering for the East Manawa Storm Water Pump Station. Unanimous
Resolution 07-451	Belt and Branigan moved and seconded approval of Resolution 07-451, abolishing Plant Operator III position and creating Pump Station Supervisor
Resolution 07-452	Belt and Branigan moved and seconded approval of Resolution 07-452, executing an agreement with Snyder & Associates for engineering services

RECORD OF PROCEEDINGS

with the US Highway 275 Street Lighting project. Unanimous

Resolution 07-453 Belt and Bates moved and seconded approval of Resolution 07-453, accepting work of D & D Construction in connection with Mosquito Creek Stabilization along Valley View Drive. Unanimous

Resolution 07-454 Walsh and Bates moved and seconded approval of Resolution 07-454, approving amendment to the agreement between PCDC And Seldin Company for implementation of 25th Street and West Broadway project. Unanimous

Resolution 07-455 Branigan and Belt moved and seconded approval of Resolution 07-455, accepting work of Anderson Excavating Company for Sunset Park North Subdivision, Phase III. Roll Call Vote: 4 Aye, 1 Abstain (Schultz)

Resolution 07-456 Branigan and Bates moved and seconded approval of Resolution 07-456, authorizing Mayor to submit a Community Attraction & Tourism Grant application. Unanimous

Resolution 07-457 Bates and Walsh moved and seconded approval of Resolution 07-457, amending the FY 2007-08 Capital Improvement Program. Unanimous

Resolution 07-458 Walsh and Branigan moved and seconded to deny resolution 07-458, authorizing Mayor to enter into extension and addendum to agreement with Prine, LLC.

Mr. Chris Mattsen, 154 Norwood, Council Bluffs and Mr. Ward Prine, 113 Greenview Circle spoke in favor of the Resolution.

Motion withdrawn. Schultz and Bates moved and seconded to continue Resolution 07-458 until the regular meeting of January 14, 2008 at 7:00 p.m. after all relevant financial documents are reviewed by Council. Unanimous

Resolution 07-459 Bates and Schultz moved and seconded approval of Resolution 07-459, authorizing Mayor to execute Agreement with Historical General Dodge House Foundation. Branigan and Schultz moved and seconded to amend the motion to postpone action until the regular meeting of January 14, 2008 at 7:00 p.m. Bates concurred. Unanimous

Resolution 460 Branigan and Belt moved and seconded approval of Resolution 07-460, authorizing Mayor to execute Metropolitan Coalition Agreement to work with State Legislators on issues regarding larger city issues. Walsh amended the motion to provide that if less than nine cities join the proposed coalition that the Resolution is brought back to City Council for reconsideration. Branigan seconded the motion. Unanimous

Vote on main motion: Unanimous

Resolution 07-461 Branigan and Belt moved and seconded approval of Resolution 07-461, authorizing Mayor to execute Assessment Agreement with CMK Development LLC. Unanimous

Resolution 07-411 Branigan and Schultz moved and seconded approval of Resolution 07-411, authorizing Mayor to execute agreement with MidAmerican Energy concerning annexation.

Ron Chapman, 39 Lakewood Villa; Sue Walsh 1 Lakewood Villa; and Norm Collier, 9 Lakewood Villa appeared in opposition to the resolution.

Voice Vote: 4 Aye, 1 Nay (Belt)

Resolution 07-425 Branigan and Bates moved and seconded approval of Resolution 07-425,

RECORD OF PROCEEDINGS

voluntary annexation of 424 acres abutting southeast corporate boundary. Unanimous

MAYOR APPOINTMENTS

Walsh and Branigan moved and seconded to concur with the Mayor's appointment of Anne Tedesco to the Citizen/Police Advisory Board with term to expire October 27, 2008. Unanimous

RECEIVE AND FILE ITEMS

Walsh and Branigan moved and seconded to receive and file the following:

- A. Three Notices of Claim/Loss
- B. Four Notices of Expiration of Right of Redemption

Unanimous

CITIZEN'S LETTERS

Belt and Branigan moved and seconded to receive and file letters from Joseph Carter and Judy Smith. Unanimous

APPLICATIONS FOR PERMITS OR CANCELLATIONS

Belt and Schultz moved and seconded approval of the following applications for renewal of liquor license: Bertha's Bar and Grille, Glass Front, Great Wall, Hy-Vee #2, Main Street Tavern, Longest Yard Sports Bar and Skeeter Barnes Steaks and BBQ. Unanimous

Belt and Walsh moved and seconded approval of the following applications for renewal of liquor license: Mario's Bar and Laundry. 4 Aye, 1 Nay (Branigan)

Belt and Schultz moved and seconded approval of application for new liquor license for Goofy's, 807 South 21st Street. Unanimous

Belt and Schultz moved and seconded approval of application for retail cigarette/tobacco permit for: Goofy's and NYX. Unanimous

ADJOURNMENT

There being no further business to come before City Council, Belt and Branigan moved and seconded to adjourn at 7:51 p.m. Unanimous

The tape recording of this proceeding, though not transcribed, is part of the record of each respective action of the Council. The tape recording of this proceeding is incorporated into these official minutes of this Council meeting as if they were transcribed herein.

Thomas P. Hanafan, Mayor

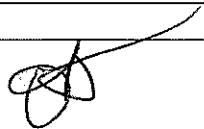
ATTEST:

Judith H. Ridgeley, City Clerk

City Council Communication

Department: Community Development Applicant: John and Margaret LaBounty 109 Pearl Street, Council Bluffs, IA 51503 Case #ENC-08-001	Resolution of Intent No. <u>08-01</u> Resolution to Grant No. _____	Planning Commission: 01-8-08 Set Public Hearing: 01-14-08 Public Hearing: 01-28-08
Subject/Title Request to encroach into the public right-of-way located adjacent to 109 Pearl Street to allow reconstruction of the primary building entrance and to construct an ADA compliant access ramp.		
Background <p>The applicant purchased the property at 109 Pearl Street for residential and commercial use. In order to accommodate commercial use on the first floor the structure must be handicap accessible. Because the structure extends from lot line to lot line there is no additional lot area to construct an ADA compliant ramp. The building levels do not correspond to the sidewalk grade making the first floor level higher than the sidewalk elevation.</p> <p>A policy is currently under review to address intrusions into the public way which result in improved access to existing buildings when public pedestrian circulation can be preserved.</p> <p>The owners intend to renovate the structure to resemble its original appearance as the Nonpareil building. A copy of an early photograph is attached. The applicant proposes to replace the original entry stairs thereby addressing the grade difference on the Pearl Street side and to install an ADA compliant ramp on the South Main Street side.</p>		
Discussion <ol style="list-style-type: none">1. The proposed entry on Pearl Street appears to meet the guidelines of the pending policy and appears to be sympathetic to the original building design and the materials currently in use.2. The proposed ADA ramp does not appear to relate to the building materials of the current building. The ramp is modular in construction and does not include masonry products. The ramp is bolted together and fixed to the existing sidewalk, presenting a temporary appearance. A mesh material will be attached underneath the ramp to act as screening. The ramp does not aesthetically relate to the building.3. The applicant has not demonstrated other alternatives to relieve the need to encroach into the South Main Street right-of-way. Other alternatives may be to install a lift to reach the first floor level which may require the use of less City right-of-way. It may be possible to internalize the access ramp into the building removing the need for a public encroachment.4. If an easement is granted, it will be for a permanent encroachment. Any improvement allowed should be made of materials complementary to the structure and be of lasting quality.5. The applicant stated that the ramp will be powder coated in a black or very dark grey color. The ramp deck will not be painted. The applicant has indicated that the tubular railing is a good match for railings used during the original time period of construction.6. The applicant states that the ramp system they propose will be flexible for sidewalk heaving related to frost. They also indicate that a local fabricator quoted approximately \$22,000 to build a metal ramp.7. Water Works has indicated that water service to the building is on Main Street. The stop box is located 8 feet east of the east wall of the building. Any adjustments or the stop box or service line must be done by the property owner.		

<p style="text-align: center;">Recommendation</p> <p>The Community Development Department recommends:</p> <ol style="list-style-type: none">1) Granting a permanent easement to allow the reconstruction of the entry on the Pearl Street side as depicted in Attachment A, subject to submission of a plat of survey exhibit; and2) Denial of the requested easement on the South Main Street side to allow a ramp constructed of materials as shown in Attachment B.3) Payment in an amount as determined by the City Council for the granted easement.
<p style="text-align: center;">Attachments</p> <p>Attachment A: Proposed encroachment design as submitted by the applicant; Attachment B: Ramp type and screening mesh examples as provided by the applicant; Attachment C: Historic photograph</p> <p>Prepared by: Rose Brown, Urban Planner, Community Development Department</p>



Prepared by: Community Development Dept., Co. Bluffs, IA 51503 – Phone: 328-4629
Return to: City Clerk, 209 Pearl Street, Co. Bluffs, IA 51503 – Phone: 328-4616

RESOLUTION NO. 08-01

A RESOLUTION OF INTENT TO GRANT AN EASEMENT AND CONVEY CERTAIN PROPERTY RIGHTS IN THE PEARL STREET AND SOUTH MAIN STREET RIGHTS-OF-WAY ADJACENT TO LOT 3, BLOCK 9, BAYLISS 1ST ADDITION, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, John and Margaret LaBounty request an easement be granted within the Pearl Street right-of-way and the South Main Street right-of-way adjacent to property legally described as Lot 3, Block 9, Bayliss 1st Addition.

WHEREAS, this City Council hereby declares its intent to consider granting and easement and conveying certain property rights to John and Margaret LaBounty for the purpose of constructing a new entrance and an ADA compliant ramp located at 109 Pearl Street; and

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

That this City Council hereby declares its intent to consider granting an easement and conveying certain property rights on the above described City property; and

BE IT FURTHER RESOLVED

That a public hearing on the City's intent to grant an easement is hereby set for January 28, 2008.

ADOPTED
AND
APPROVED: January 14, 2008

Thomas P. Hanafan, Mayor

ATTEST: _____
Judith H. Ridgeley, City Clerk

COUNCIL COMMUNICATION

Department: Public Works
Case/Project No.: FY09-05C
Applicant

Ordinance No.
Resolution No. 08-02

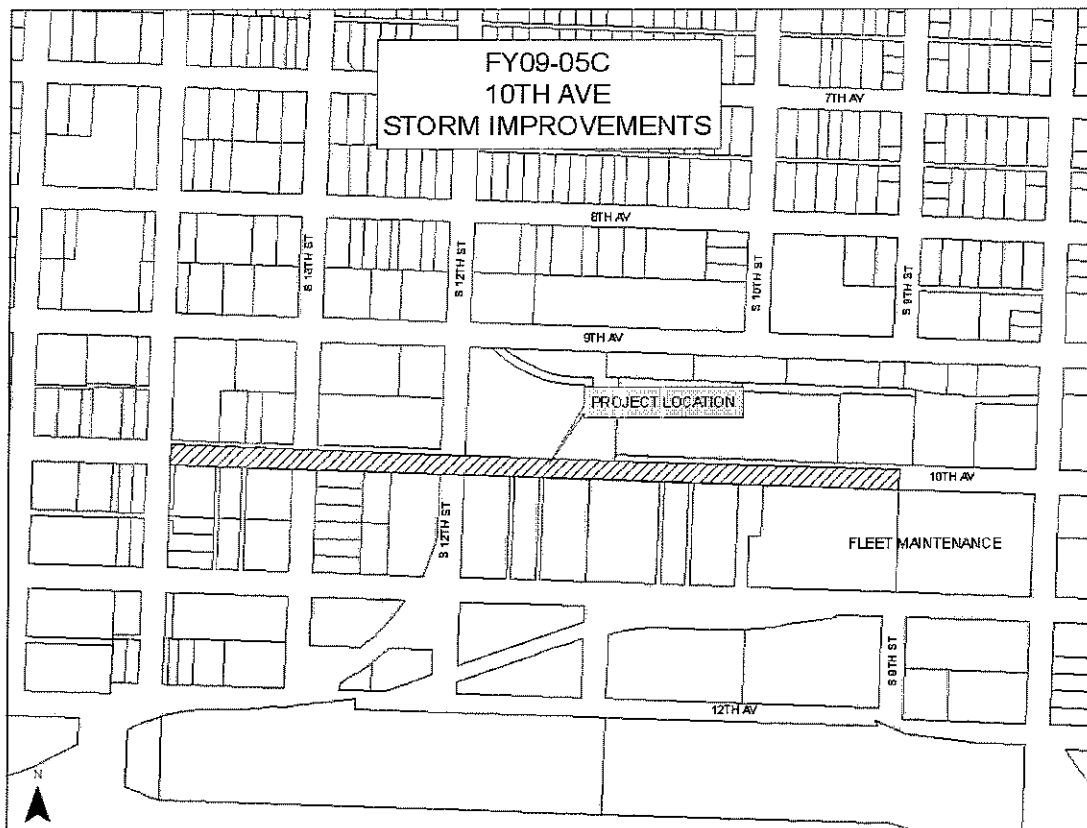
Date: January 14, 2008

SUBJECT/TITLE

Council consideration of a resolution setting a public hearing for 7:00 p.m. on January 28, 2008, for the 10th Avenue Storm Sewer Improvements.

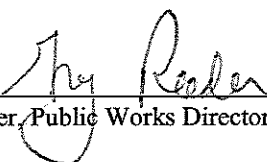
BACKGROUND/DISCUSSION

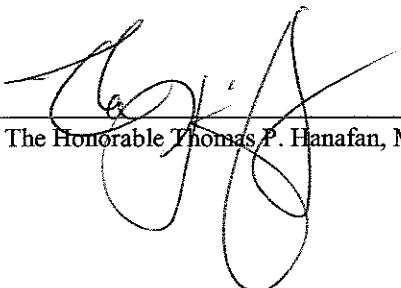
- The city is proposing to construct a new fleet maintenance facility on 10th Avenue near 9th Street. This location is a part of the city owned property which extends from 8th Street to 12th Street between 11th Avenue and 10th Avenue. The site has been masterplanned for the eventual relocation of all public works facilities to this location. Currently the existing old CO-OP building is occupied by pump station maintenance division and the Parks Department's building maintenance division.
- There is no storm sewer in 10th Avenue and drainage in the area is very poor.
- This project involves construction of a storm sewer in 10th Avenue from Indian Creek to 9th Street.
- The project will also include a water main extension. The site currently is not served by existing water main.
- This project is in coordination with the proposed new fleet maintenance facility. Site prep work for that project is to be done this winter. The construction of the fleet building is scheduled to start in the spring of 2008.
- This is project FY09-05C in the CIP and has a budget of \$500,000 in sales tax funds. The project is scheduled for 2008 construction.



RECOMMENDATION

Approval of the resolution setting a public hearing for 7:00 p.m. on January 28, 2008, for the 10th Avenue Storm Sewer Improvements.


Greg Reeder, Public Works Director/City Engineer


The Honorable Thomas P. Hanafan, Mayor

RESOLUTION
NO. 08-02

**RESOLUTION DIRECTING THE CLERK TO PUBLISH NOTICE
AND SETTING A PUBLIC HEARING ON THE
PLANS, SPECIFICATIONS, FORM OF CONTRACT
AND COST ESTIMATE FOR THE
10TH AVENUE STORM SEWER
IMPROVEMENTS
FY09-05C**

WHEREAS, the City wishes to make improvements known as the
10th Avenue Storm Sewer Improvements,
within the City, as therein described; and

WHEREAS, the plans, specifications, form of contract and cost
estimate are on file in the office of the city clerk.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the City Clerk is hereby ordered to set a public hearing on the plans, specifications,
form of contract and cost estimate for the 10th Avenue Storm Sewer Improvements
setting January 28, 2008, at 7:00 p.m. as the date and time of said hearing.

ADOPTED

AND

APPROVED January 14, 2008

Thomas P. Hanafan, Mayor

ATTEST:

Judith Ridgeley, City Clerk

Council Communication

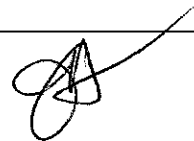
Department: Community Development Case No. SUB-07-025 <u>Applicants:</u> <u>PCDC</u> – Sheryl Garst 7 No. 6 St. Council Bluffs, IA 51503 <u>Hy-Vee Inc. - John Brehm</u> 5820 Westown Parkway West Des Moines, IA 50266 <u>Surveyor/Engineer:</u> Lamp, Rynearson & Associates 14710 W. Dodge Rd. Suite 100 Omaha, NE 68154	Resolution No. <u>08-03</u>	City Council Meeting Public Hearing: <u>1-14-08</u>
Subject/Title Hy-Vee at West Broadway Subdivision – Final Plat approval		
<p style="text-align: center;">Background/Discussion</p> <p>Pottawattamie County Development Corporation (PCDC) assembled the land from South 23rd to South 25th Street between West Broadway and 1st Avenue for redevelopment purposes. Upon final plat approval, Hy-Vee Inc. intends to purchase proposed Lots 1 and 3 to construct a grocery store and gas station. A bank is considering Lot 2. This replat of 7.6 acres, including vacated rights-of-way will create 3 lots, along the south side of West Broadway. These two blocks and the land to the north, east and west are in a C-2 Commercial District within the West Broadway Corridor Design Overlay. South of 1st Avenue, the land is zoned R-3/Low Density Multi-family Residential. Replats are approved after public hearing by the City Council.</p> <p>The proposed subdivision is consistent with the 1994 Comprehensive Plan and the purpose and intent of the Zoning and Subdivision Ordinances.</p> <ol style="list-style-type: none"> 1. The Public Works Department has approved the location of the access points along the abutting streets, including the shared drives as well as adequate queue lengths for a bank drive-up window. 2. Public Works is finalizing review of the storm and sanitary sewer connections/removal and cost estimates. Final storm water management calculations with mitigation measures are needed. The dedication does not include conveyance with conditions to the City of the sewer easements. Pavement for the railroad crossing approach pavement shall be removed with the subdivision. The City will remove the adjacent railroad crossing. Driveway conflicts with existing storm sewer inlets will require modifications to the inlet tops. 3. Water and other utilities are available with adequate capacity to serve the proposed uses. Service lines for new structures are required at time of construction, with costs borne by the developer. 4. MidAmerican Energy has overhead and underground facilities in the area. The overhead lines will be relocated with construction. Clearances from existing facilities will need to be maintained. Service for several streetlights along West Broadway will be transferred with construction. All costs associated with extending or relocating facilities are the developer's responsibility. The developer is responsible for installing a conduit system and providing a 15' wide easement for the underground facilities. Sizing and location, based upon the electric loading requirements of each building, will be developed in conjunction with MidAmerican Energy. 		

Recommendation

The Community Development Department recommends approval of the final plat for a subdivision to be known as Hy-Vee on West Broadway, as shown on Attachment 'A', subject to the following:

1. Prior to executing the final plat, all technical corrections required by the Community Development and/or Public Works Department shall be incorporated into the final plat document, including but not limited to the easements noted elsewhere, with beneficiaries clearly noted.
2. Prior to executing the final plat, all required public improvements shall be installed at developer's expense and accepted by the City, or the City shall be in receipt of a performance guarantee in an amount determined by the Public Works Department to be sufficient to finish the public improvements not yet completed and/or certified and accepted by the Public Works Department.
3. The developer shall provide the City with two sets of as-built construction drawings and a two-year maintenance bond, upon acceptance of all required improvements.
4. Within the subdivision, all utilities shall be installed underground.
5. Complete arrangements with MidAmerican Energy regarding timing, installation and payment for the relocation and installation of lines/conduit and streetlights. Required clearances are necessary from all existing facilities. Easements necessary for new and continued access to the facilities will be incorporated into the final plat document and provided to MidAmerican at no cost.
6. All applicable permits necessary to meet local, state and federal requirements shall be the developer's responsibility.
7. Install fire hydrants, at developer's expense, to comply with the Water Works requirements and the Fire Safety Code.
8. Sidewalk, constructed to City commercial standards along South 23rd and South 25th Streets (concrete 6' wide and 6" deep) and continuing the streetscape design along West Broadway, shall be in place prior issuance of any certificate of occupancy within the subdivision.

Prepared by: Gayle M. Malmquist, Development Services Coordinator
Attachment: Hy-Vee on Broadway Subdivision - Final Plat - Attachment 'A'



RESOLUTION NO. 08-03

A RESOLUTION granting final plat approval for Hy-Vee at West Broadway Subdivision.

WHEREAS, Pottawattamie County Development Corporation (PCDC) assembled the land from South 23rd to South 25th Street between West Broadway and 1st Avenue for redevelopment purposes; and

WHEREAS, this replat of 7.6 acres, including vacated rights-of-way, will create three lots along the south side of West Broadway; and

WHEREAS, upon final plat approval, Hy-Vee Inc. intends to purchase proposed Lots 1 and 3 to construct a grocery store and gas station. A bank is considering Lot 2; and

WHEREAS, the proposed subdivision is consistent with the 1994 Comprehensive Plan and the purpose and intent of the Zoning and Subdivision Ordinances; and

WHEREAS, the Community Development Department recommends approval of the final plat for a subdivision to be known as Hy-Vee on West Broadway, as shown on Attachment "A", subject to the following:

1. Prior to executing the final plat, all technical corrections required by the Community Development and/or Public Works Department shall be incorporated into the final plat document, including, but not limited to the easements noted elsewhere, with beneficiaries clearly noted.
2. Prior to executing the final plat, all required public improvements shall be installed at developer's expense and accepted by the City, or the City shall be in receipt of a performance guarantee in an amount determined by the Public Works Department to be sufficient to finish the public improvements not yet completed and/or certified and accepted by the Public Works Department.
3. The developer shall provide the City with two sets of as-built construction drawings and a two-year maintenance bond, upon acceptance of all required improvements.
4. Within the subdivision, all utilities shall be installed underground.
5. Complete arrangements with MidAmerican Energy regarding timing, installation and payment for the relocation and installation of lines/conduit and streetlights. Required clearances are necessary from all existing facilities. Easements necessary for new and continued access to the facilities will be incorporated into the final plat document and provided to MidAmerican at no cost.
6. All applicable permits necessary to meet local, state and federal requirements shall be the developer's responsibility.
7. Install fire hydrants, at developer's expense, to comply with the Water Works requirements and the Fire Safety Code.
8. Sidewalk, constructed to City commercial standards along South 23rd and South 25th Streets (concrete 6' wide and 6" deep) and continuing the streetscape

design along West Broadway, shall be in place prior to issuance of any certificate of occupancy within the subdivision.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

That the final plat for Hy-Vee at West Broadway Subdivision, as shown on the attachment, is hereby approved, subject to the conditions set forth above; and

BE IT FURTHER RESOLVED

That the Mayor and City Clerk are hereby authorized and directed to endorse the final plat.

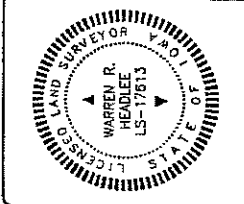
ADOPTED
AND
APPROVED January 14, 2008

THOMAS P. HANAFAN Mayor

Attest: _____
JUDITH RIDGELEY City Clerk

HY-VEE AT WEST BROADWAY LAND SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT I have made a boundary survey of the subdivision herein and the monuments have been found or set at all angle points and corners on the perimeter as indicated hereon and that a bond has been posted with the City of Council Bluffs, Iowa, to insure that permanent monuments will be placed at all angle points, corners and boundaries of lots in the subdivision to be known as HY-VEE ON WEST BROADWAY (Lots 1, 2, and 3) being a replatting of the City of Council Bluffs, Iowa, bounded by the south right of way line of West Broadway on the north, the west right of way line of South 23rd Street on the east, the east right of way line of South 23rd Street on the south and the east right of way line of 25th Avenue on the West, described as follows: Lots 1 through 6, inclusive, Block 4, COCHRAN'S ADDITION; Lots 1 through 9, inclusive, MARTIN'S SUBDIVISION; Lots 5 and 6, and the West Half of Lot 4, Block 2, STREET'S ADDITION; Lots 1 through 18, inclusive, Block 1, WRIGHT'S ADDITION, AND Lots 1 through 4, inclusive, AUDITOR'S SUBDIVISION OF LOTS 18 THROUGH 23, INCLUSIVE IN BLOCK 1, WRIGHT'S ADDITION, subdivisions, as surveyed, plotted and recorded in Pottawatomie County, Iowa, TOGETHER WITH all vacated streets and alleys within the bounded area, EXCEPT a twenty foot charter in the northwest corner of Lot 13, Block 3B, in said CENTRAL SUBDIVISION, the entire tract described by metes and bounds as follows: Beginning at a 5/8" rebar with 1 1/4" yellow plastic cap stamped LS 11973 at the intersection of the south right of way line of West Broadway with the west right of way line of South 23rd Street; Thence South 20°44'31" line to a 5/8" rebar with 1 1/4" yellow plastic cap stamped LS 5414 in the north right of way line of 1st Avenue; Thence North 89°09'58" West for 890.63 feet along said north right of way line to a 5/8" rebar with 1 1/4" yellow plastic cap stamped LS 11973 in the east right of way line of South 25th Street; Thence North 01°03'01" East for 352.84 feet along said east right of way line to a 5/8" rebar with 1 1/4" yellow plastic cap stamped LS 11973 and the southerly corner of said twenty foot charter; Thence North 48°08'58" East for 1/4" yellow plastic cap stamped LS 11973 in the south right of way line of West Broadway and the easterly corner of said twenty foot charter; Thence South 89°06'04" East for 868.67 feet along said south right of way line to the Point of Beginning. Contains 7.801 acres.



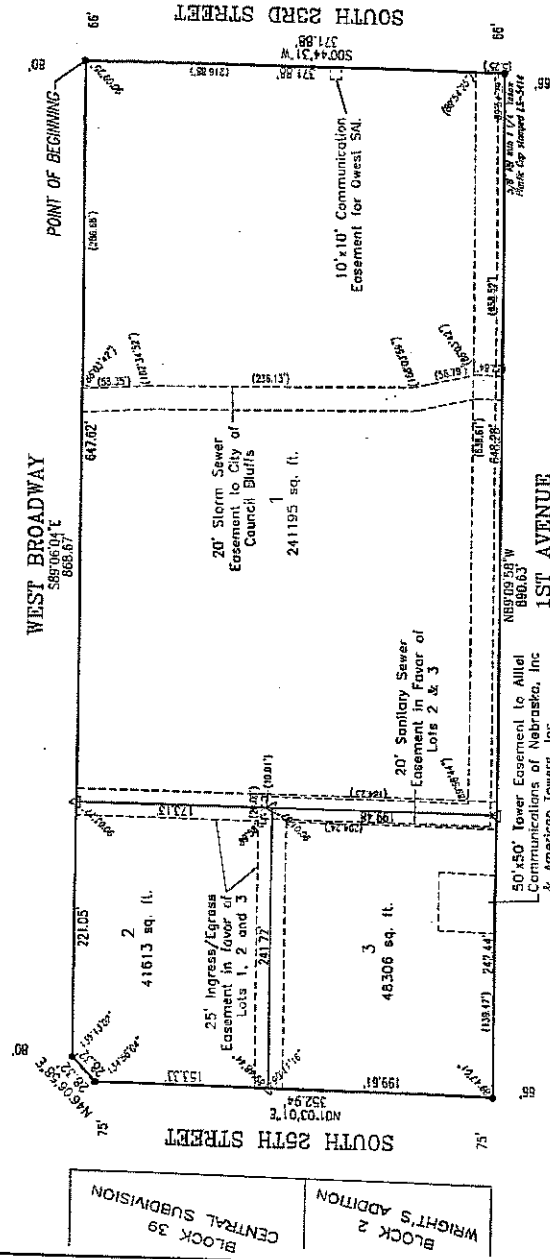
I hereby certify that this land surveying document was prepared and this related survey work was performed by me, the undersigned, a duly Licensed Land Surveyor under the laws of the State of Iowa.

Warren R. Headlee
Land Surveyor Date 11-9-07

Printed or typed name: WARREN R. HEADLEE
License number: LS-17613
My license renewal date is December 31, 2008
Sheets covered by this seal: 2
Plot of Survey prepared for: HY-VEE

BLOCK 37 CENTRAL SUBDIVISION									
14	15	16	17	18	19	20	21	22	23
24	25	26	27	28	29	30	31	32	33
34	35	36	37	38	39	40	41	42	43

BLOCK 3 STREET'S ADDITION									
9	10	11	12	13	14	15	16	17	18
19	20	21	22	23	24	25	26	27	28
29	30	31	32	33	34	35	36	37	38



BLOCK 5 COCHRAN'S ADDITION									
1	2	3	4	5	6	7	8	9	10
11	12	13	14	15	16	17	18	19	20
21	22	23	24	25	26	27	28	29	30

BLOCK 2 WRIGHT'S SUBDIVISION									
23	22	21	20	19	18	17	16	15	14
13	12	11	10	9	8	7	6	5	4
3	2	1							

LEGEND

- CORNER FOUND (5/8" REBAR WITH 1 1/4" YELLOW PLASTIC CAP STAMPED LS-11973, UNLESS NOTED)
- CORNER SET (5/8" REBAR WITH 1 1/4" YELLOW PLASTIC CAP STAMPED LS-17613)
- 50'x50' Tower Easement to Alltel Communications of Nebraska, Inc. & American Towers, Inc.
- 20' Storm Sewer Easement to City of Council Bluffs
- 20' Sanitary Sewer Easement in Favor of Lots 2 & 3
- 25' Ingress/Egress Easement in Favor of Lots 1, 2 and 3

NOTES

- All distances are shown in decimal feet.
- All angles are 90° unless otherwise noted.
- Distances and angles shown in parenthesis refer to easements.
- Alley vacations by ordinance or resolution as shown hereon.

CASE #SUB-07-025
ATTACHMENT 'A'

HY-VEE AT WEST BROADWAY

DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That We, Pottawattamie County Development, OWNERS, AND Peoples National Bank, MORTGAGEES, of the land described in the Land Surveyor's Certificate and embraced within this plat, have caused said land to be subdivided as shown hereon, said subdivision to be recorded shown as HY-VEE AT WEST BROADWAY (lots 1, 2 and 3) do hereby certify and we do hereby grant to the City of Council Bluffs, Iowa, to be further grant a perpetual easement to MIDAMERICAN ENERGY, ONEST and any franchise under the authority of the City Council of Council Bluffs, Iowa, to be subdivided, television and electronic communication system in the area to be subdivided, their successors and assigns, to erect, operate, maintain, repair, and renew poles, wires, cables, conduits, and other related facilities; and to extend thereon wires or cables for the carrying and transmission of electric current for light, heat, and power and for the transmission of signals and sounds of all kinds including signals provided by cable television systems, and the reception thereon, over, through, under, and across a ten foot (10') easement abutting the perimeter of the above described subdivision. In consideration of the grant of these easements and as a limitation of these easements granted herein, any wires, cables, conduits and/or pipelines installed by any grantee, or any beneficiary under the easements granted herein, shall be installed at least thirty-six (36") inches below ground and any other underground facilities shall also be installed at least thirty-six (36") inches below ground and, in the event of a failure to comply with this limitation, such grantee and/or beneficiary shall be solely responsible for any and all costs, expenses, liability, and/or damage resulting from such failure, including but not limited to the replacement or relocation costs. No permanent structures, retaining walls, nor loose rock walls shall be placed in this easement, but the same may be used for driveways, fences, gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted.

Pottawattamie County Development Corp., OWNERS

AW Tacke, President

Peoples National Bank, MORTGAGEES

Douglas Goodman, President

ACKNOWLEDGEMENT OF NOTARIES

State of Iowa }
County of Pottawattamie } SS

On this the 12th day of November, 2007, A.D., before me, a Notary Public, duly commissioned and qualified for said County, appeared AW Tacke, who is personally known to me to be the identical person whose name is affixed as President of Pottawattamie County Development, OWNERS, and he did acknowledge his execution of the foregoing Dedication and Petition to be his voluntary act and deed and the voluntary act and deed of said entity.

Witness my hand and seal the date aforesaid.



State of Iowa }
County of Pottawattamie } SS

On this the 12th day of November, 2007, A.D., before me, a Notary Public, duly commissioned and qualified for said County, appeared Douglas Goodman, who is personally known to me to be the identical person whose name is affixed as President of Peoples National Bank, MORTGAGEES, and he did acknowledge his execution of the foregoing Dedication and Petition to be his voluntary act and deed and the voluntary act and deed of said entity.

Witness my hand and seal the date aforesaid.



APPROVAL OF THE COMMUNITY DEVELOPMENT DIRECTOR

This plat of HY-VEE on WEST BROADWAY was approved by the Community Development Director.

Director _____ Date _____

COUNTY TREASURER CERTIFICATION

This is to certify that I find no regular or special taxes due or delinquent against the property as described in the Land Surveyor's Certificate and as shown in this office.

County Treasurer _____ Date 11-15-07

APPROVAL OF THE CITY OF COUNCIL BLUFFS, IOWA

This plat of HY-VEE on WEST BROADWAY was approved by the City Council of Council Bluffs, Iowa.

Approved: Mayor _____ Date _____

Attest: City Clerk _____ Date _____

This plat is null and void in not recorded within ninety (90) days of the above date.



Lamp, Rynearson & Associates, Inc.

14710 West Dodge Road, Suite 103
Omaha, Nebraska 68154-2027

WWW.LRA-INC.COM

(PH) 402.496.2498
(FAX) 402.496.2700

Drawn by: MLW
Designed: WRI
Job number: 07043.01
Date: JULY 25, 2007
Book: 0185 Page 34-35
File name: HY-VEE ON WEST BROADWAY.dwg

HY-VEE AT
WEST BROADWAY
FINAL
PLAT

Council Communication

Department: Community Development Case/Project No. SUB-07-026 Applicant: Art Camenzind 10406 State Street Omaha, NE 68112	Resolution No. <u>08-04</u>	Public Hearing 1/14/08
Subject/Title		
Final plat approval for a 21 lot subdivision to be known as Gethsemane Gardens		
Background/Discussion		
<p>The Community Development Department has received an application for final plat approval of a 21 lot subdivision to be known as Gethsemane Gardens. The subdivision will include 19 single family lots and 1 lot for the construction of Gethsemane Presbyterian Church. Lot 21 will not be further subdivided at this time. The property is west of East Manawa Drive (limited access roadway) at Wallace Avenue which will be extended to connect to East Manawa Drive as previously determined during the roadway construction.</p> <p>The property was rezoned to R-1/Single Family Residential District subject to conveyance of a remnant parcel, shown as an outlot on the preliminary plan, to an adjoining property owner. The property line adjustment was completed and a deed was recorded with the Pottawattamie County Recorder's office. However, the Pottawattamie County Auditor's office recently brought it to the attention of the City that the legal description prepared by the applicant's surveyor did not reflect certain acquisitions and conveyances to the Iowa Department of Transportation. The information was provided to the applicant's engineer. The preliminary plan also did not reflect that the East Manawa Drive right-of-way at this location was not acquired by fee title, but rather by easement. The legal description must be revised to reflect the accurate description of the property to be subdivided.</p>		
<p>COMMENTS - The appropriate City departments and utilities have reviewed the final plat, with comments incorporated below.</p> <ol style="list-style-type: none">1. All lots have direct access to a public street and will be fully served by City services.2. The legal description of the subdivision shall be corrected to reflect the entire parcel. The East Manawa Drive roadway exists by easement and not platted right-of-way, as a result there is a remnant piece of property on the east side of the Lateral 5 easement. The remnant property can only be accessed by the existing bridge at the Quarter Section of 18-74-43 or by a future crossing of the lateral at Redtail Road extension from Eagle Trail Subdivision.3. The existing sanitary sewer easement located along the north boundary of proposed lot 21 shall be added to the plat.4. The west boundary of lot 21 must reflect a 30 foot wide drainage easement from the north boundary line to the proposed right-of-way line of Wallace. The rear yard drainage areas and detention ponds must have a blanket stormwater easement and be dedicated to the homeowner's association for maintenance.5. East Manawa Drive is a limited access roadway. No lot will be allowed direct access to East Manawa Drive. Access points have been established at Wallace Avenue extended and at the Quarter Section line of 18-74-43 (the northeast corner of proposed lot 21). The applicant has dedicated all rights of direct access to Wallace Avenue and East Manawa Drive to the City.6. Wallace Avenue, as proposed for extension shall be a 50 foot right-of-way dedicated to the City for public use. East Manawa Drive adjacent to the development and including the lateral 5 storm easement shall be dedicated to the City as fee title. The right-of-way width shall be 130 feet wide.		

7. MidAmerican Energy has facilities in the vicinity. The developer must maintain clearances from all existing facilities and will be responsible for the cost to relocate or extending any facility. The developer will be responsible to install a conduit system. Ten foot front yard and five foot side yard easements along with two-four inch conduits at all street crossings will be required. The developer will pay for the electric extension to the lots with a refundable contract. There is an additional charge of \$55,000.00 for a three-phase extension to serve Lot 1. All electric lines providing service to the project and to the lots within the subdivision must be placed underground. Verification by MidAmerican Energy of receipt of the contract and payment is required prior to execution of the final plat.
8. 10-foot front and rear and 5 foot side yard easements for installation and use of franchise utilities must be added to the plat.
9. Street lights are required in accordance with Public Works Department Standards. Final plat execution shall not occur until such time as MidAmerican Energy confirms that all necessary agreements and deposits have been received from the developer. Street lights shall be installed at the sole cost of the developer.
10. All utilities shall be installed underground at the sole expense of the developer.
11. If a subdivision identification sign, subject to compliance with Chapter 15.33 of the Municipal Code, is desired it must be located in a recorded private easement and may not be located within the public right-of-way.
12. A water main extension request has been received by the Council Bluffs Water Works.
13. No public improvements have been installed. A performance guarantee in the amount of \$797,375.00 must be submitted to the City prior to execution of the final plat.
14. Fire hydrants must be functional prior to the commencement of any framing activity in the subdivision.
15. Sidewalk is required along both sides of Wallace Avenue as extended, including west of proposed Lot 2. The sidewalk shall be installed to connect with a future trail along East Manawa Drive. Sidewalk shall be installed along the north side of Wallace Avenue, west of Lot 2 with the subdivision improvement construction. Sidewalk shall be installed prior to issuance of a Certificate of Occupancy for each house and/or structure, at no cost to the City.
16. A copy of the private covenants and restrictions shall be submitted to the Community Development Department prior to execution of the final plat.

Recommendation

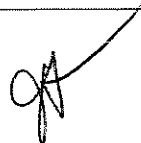
The Community Development Department recommends approval of the final plat for a residential subdivision to be known as Gethsemane Gardens as shown on Attachment 'A', subject to the following conditions:

1. All technical corrections, including corrections to the legal description and all easement information required by the Community Development Department and/or Public Works Department shall be made on the final plat document prior to execution of the document.
2. All utilities must be installed underground.
3. The final plat shall not be executed until all conditions of the staff report are met including the submission of private codes, covenants and restrictions.
4. Sidewalk shall be installed along the street frontage, of all streets, prior to issuance of a Certificate of Occupancy for each house and/or structure, at no cost to the City. Sidewalk shall be installed west of Lot 2 with the subdivision improvements. The sidewalk shall be installed to connect with a future trail along East Manawa Drive.

Attachments

Attachment 'A': Gethsemane Gardens final plat (1 page)

Prepared by: Rose Brown, Community Development Department



RESOLUTION NO. 08-04

A RESOLUTION granting final plat approval for a 21-lot subdivision to be known as Gethsemane Gardens.

WHEREAS, the Community Development Department has received an application for final plat approval of a 21-lot subdivision to be known as Gethsemane Gardens, which will include 19 single family lots and one lot for the construction of Gethsemane Presbyterian Church. Lot 21 will not be further subdivided at this time; and

WHEREAS, the property was rezoned to R-1/Single Family Residential District subject to conveyance of a remnant parcel, shown as an outlot on the preliminary plan, to adjoining property owner; and

WHEREAS, the final plat has been reviewed by the appropriate city departments and utilities; and

WHEREAS, the Community Development Department recommends approval of the final plat for Gethsemane Gardens Subdivision, as shown on Attachment "A", subject to the following conditions:

1. All technical corrections, including corrections to the legal description and all easement information required by the Community Development and/or Public Works Department shall be made on the final plat document prior to execution of the document.
2. All utilities must be installed underground.
3. The final plat shall not be executed until all conditions of the staff report are met, including the submission of private codes, covenants and restrictions.
4. Sidewalk shall be installed along the street frontage of all streets, prior to issuance of a Certificate of Occupancy for each house and/or structure, at no cost to the City. Sidewalk shall be installed west of Lot 2 with the subdivision improvements. The sidewalk shall be installed to connect with a future trail along East Manawa Drive.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

Final plat for Gethsemane Gardens Subdivision, as shown on Attachment "A", is hereby approved, subject to the conditions set forth above; and

BE IT FURTHER RESOLVED

That the Mayor and City Clerk are hereby authorized and directed to endorse the final plat.

ADOPTED

AND

APPROVED January 14, 2008

THOMAS P. HANAFAN

Mayor

Attest:

JUDITH RIDGELEY

City Clerk

Planning Case No. SUB-07-026

Council Communication

Department: <u>City Attorney</u>		First Reading <u>Dec 10, 2007</u> Second Reading <u>Jan. 14, 2008</u> Third Reading _____
Case/Project No.	Ordinance No. <u>5959</u>	
Applicant.		
Subject/Title		
AN ORDINANCE to amend Chapter 1.40 "Council Bluffs Civil Rights Commission" of the 2005 Municipal Code of Council Bluffs, Iowa, by repealing and reenacting Section 1.40.040 "Establishment, membership and organization."		
Background/Discussion		
It is the intent of the Council Bluffs Civil Rights Commission to include a provision in Section 1.40.040 to allow the removal of a commissioner if 3 or more regular meetings are missed in a calendar year.		
Recommendation		
It is the recommendation of the Council Bluffs Civil Rights Commission to approve the ordinance to amend Section 1.40.040 of the Council Bluffs Municipal Code.		

Submitted by: Dick Wade, City Attorney



Mayor Signature

ORDINANCE NO. 5959

AN ORDINANCE to amend Chapter 1.40 “Council Bluffs Civil Rights Commission”, of the 2005 Municipal Code of Council Bluffs, Iowa, by repealing and reenacting Section 1.40.040 “Establishment, membership and organization”.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Chapter 1.40 “Council Bluffs Civil Rights Commission” of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Section 1.40.040 “Establishment, membership and organization” and enacting a new Section 1.40.040 “Establishment, membership and organization”, to read as follows:

“1.40.040 Establishment, membership and organization. There is established the Council Bluffs civil rights commission. The commission shall consist of nine members. Commissioners shall be appointed by the mayor, subject to approval by the city council, for a term of three years, with terms expiring on August 1st. In the event of vacancies, special appointments to the commission shall be made by the mayor, subject to approval by the city council. The commission shall elect its own chairperson and such other officers as the commission may deem necessary. All members of the commission shall be residents of the city and shall be broadly representative of the geographical areas of the community. Any member of the commission may, for cause, be removed from office by the mayor, subject to approval of the city council. Missing three (3) or more regular meetings in a calendar year shall be deemed cause, and may result in a commissioner’s removal from office. Members shall serve without compensation. A quorum shall consist of five members of the commission. All acts of the commission shall require a majority vote, unless otherwise required by Robert’s Rules of Order.”

SECTION 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. This is Ord. 5655 § 1 (part), 2001).

SECTION 3. Severability Clause. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions, shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. Effective Date. This ordinance shall be in full force and effect from and after its final passage and publication as by law provided.

PASSED
AND
APPROVED _____

THOMAS P. HANAFAN Mayor

Attest: _____
JUDITH RIDGELEY City Clerk

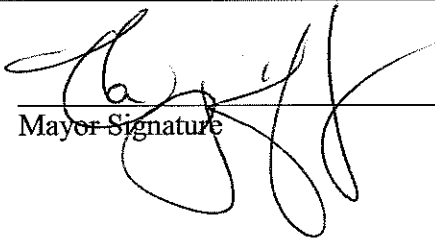
First Consideration: December 10, 2007
Second Consideration: January 14, 2008
Public Hearing: _____
Third Consideration: _____

Council Communication

Department: Legal	Ordinance No. Resolution No. <u>5960</u>	First Reading <u>Jan. 14, 2008</u> Second Reading _____ Third Reading _____
Case/Project No.		
Applicant.		
Subject/Title		
<p>I am proposing an ordinance that would change the definition of bicycle to include the following; "A device having two or three wheels with fully operable pedals and an electric motor of less than 750 watts (one horsepower) whose maximum speed on a paved level surface, when powered solely by such a motor while ridden, is less than twenty miles per hour."</p>		
BACKGROUND		
<p>The proposed change would make our city code consistent with the Iowa Code, which was amended in this fashion in 2006. This amendment would take the above defined vehicle out of its current classification as a motor vehicle, which requires registration, and have it fall under the regulations contained in Chapter 9.12 of the Council Bluffs Municipal Code. Which means it would basically have to follow the same rules of the road set out for motor vehicles, and could be operated on a sidewalk outside of the central business district so long as it does not exceed 8 miles per hour, and abides by other rules set out for the operation of bicycles on sidewalks.</p>		
Recommendation		
<p>I support the adoption of this ordinance, primarily because it keeps us consistent with state law. I have had a request by a citizen to present this change to the City Council, and considering the price of fuel, this may provide for an alternative means of transportation for our citizens.</p>		

Richard Wade

Department Head Signature



Mayor Signature

6A

ORDINANCE NO. 5960

AN ORDINANCE amending Chapter 9.12 “Bicycles” of the 2005 Municipal Code of Council Bluffs, Iowa, by amending Section 9.12.010 “Definitions”, to include an additional definition of bicycle, as set forth in the State Code.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Chapter 9.12 “Bicycles” of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Section 9.12.010 “Definitions” and enacting a new Section 9.12.010 “Definitions”, to read as follows:

“9.12.010 Definitions. For the purpose of this chapter, the following words shall have the following meanings:

(a) ‘Bicycle’ means either of the following:

(1) A device having two wheels and having at least one saddle or seat for the use of a rider which is propelled by human power. The term ‘bicycle’ as used in this chapter shall include ‘tricycles’.

(2) A device having two or three wheels with fully operable pedals and an electric motor of less than seven hundred fifty watts (one horsepower) whose maximum speed on a paved level surface, when powered solely by such a motor while ridden, is less than twenty miles per hour.

(b) ‘Owner’ includes minors who have the use and control of a bicycle or tricycle with the knowledge and consent of their parent or guardian.

(c) ‘Tricycle’ means a device having three wheels and having at least one saddle or seat for the use of a rider which is propelled by human power.

SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. This is Ordinance No. 5720, Section 1, 2002.

SECTION 3. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED _____

THOMAS P. HANAFAN Mayor

Attest: _____
JUDITH RIDGELEY City Clerk

First Consideration: January 14, 2008

Second Consideration: _____

Public Hearing: _____

Third Consideration: _____

Council Communication

<p>Department: Community Development</p> <p>Case #ZC-07-018</p> <p>Applicant: Community Development Department</p>	<p>Ordinance No. <u>5961</u></p>	<p>City Council: 1-14-08 Planning Commission: 12/11/07 First Reading: <u>January 14, 2008</u> Second Reading: Third Reading:</p>
Subject		
<p>Request of the Community Development Department to rezone Block 8, Evan's 2nd Bridge Addition from R-2/Two Family Residential and R-3/Low Density Multi-Family Residential to A-2/Parks, Estates and Agricultural for the proposed Trolley Park. This block is located between Avenue A and Avenue B, North 28th and North 29th Streets as shown on the attached map.</p>		
Background		
<p>The City's Park Master Plan has identified the 28th Street and Avenue A area for a new park. In 1999, the City purchased a large vacant industrial structure at 2822 Ave A (D and D Pallet Company). Then in 2003 the City purchased a second large industrial structure located at 2800 Avenue A (formerly known as the Bus Barn). Both structures have been demolished. The remediation of the underground contamination associated with these two industrial structures was performed in 2006. The City has recently acquired the two remaining (residential) structures on the block which will be demolished within the next 30 days. The development of a new neighborhood park (Trolley Park) on this block and a new 12 lot single family development (Porter's Park Side Subdivision) directly to the north are currently underway. These redevelopment activities are a positive influence on this neighborhood.</p> <p>Surrounding land use is mainly residential in nature. A commercial use, Hatcher Body Shop, is located at the southwest corner of Avenue and North 28th Street. Surrounding zoning is shown on the attached map.</p> <p>There has been no response from any property owner within 200 feet.</p>		
Discussion		
<p>In 1928 and 1965, this block was zoned Light Industrial and Wholesale Manufacturing respectively. The 1972 Zoning Map indicates that the northwest corner of the block was rezoned to R-2/Two Family Residential. In 1999, the remainder of the property was rezoned to R-2 and R-3/Low Density Multi-Family Residential.</p> <p>The proposed rezoning will allow this block to be developed into a park as identified in the City's Park Master Plan. A layout of the proposed park is attached.</p>		
Recommendation		
<p>The Community Development Department recommends rezoning Block 8, Evan's 2nd Bridge Addition from R-2/Two Family Residential and R-3/Low Density Multi-Family Residential to A-2/Parks, Estates and Agricultural.</p>		
Public Hearing		
<p>Gayle Malmquist, Community Development Department appeared before the Planning Commission in favor of the request. No one appeared before the Planning Commission in opposition.</p>		
Planning Commission to City Council		
<p>The Planning Commission recommends rezoning Block 8, Evans's 2nd Bridge Addition from R-2/Two Family Residential and R-3/Low Density Multi-Family Residential to A-2/Parks, Estates and Agricultural.</p>		
<p>VOTE: Aye 9 Nay 0 Abstain 0 Absent 1 Vacant 1 Motion Carried.</p>		
<p>Attachments: Map showing proposed rezoning area and surrounding zoning and the park layout plan. Prepared By: Rebecca Sall, Planning Technician, Community Development Department.</p> <div style="text-align: center; margin-top: 20px;">6 BDA</div>		

Prepared by: City of Council Bluffs Legal Department, 209 Pearl Street, Council Bluffs, IA 51503 (712) 328-4620
Return to: City Clerk, 209 Pearl Street, Council Bluffs, IA 51503

ORDINANCE NO. 5961

AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF COUNCIL BLUFFS, IOWA, AS ADOPTED BY REFERENCE IN SECTION 15.02.040 OF THE 2005 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY CHANGING THE DISTRICT DESIGNATION OF CERTAIN GROUNDS, PREMISES AND PROPERTY LOCATED BETWEEN AVENUE "A" AND AVENUE "B", FROM NORTH 28TH STREET TO NORTH 29TH STREET IN COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA, FROM ITS PRESENT DESIGNATION AS R-2/TWO FAMILY RESIDENTIAL AND R-3/LOW DENSITY MULTI-FAMILY RESIDENTIAL TO A-2/PARKS, ESTATES AND AGRICULTURAL, AS SET FORTH AND DEFINED IN CHAPTERS 15.09, 15.10, AND 15.05 OF THE MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That the Zoning Map of the City of Council Bluffs, Iowa, as adopted by reference in Section 15.02.040 of the Municipal Code of the City of Council Bluffs, Iowa, be and the same is hereby amended by changing the district designation of certain grounds, property and premises located between Avenue "A" and Avenue "B", from North 28th Street to North 29th Street, as shown on Attachment "A", and legally described as follows:

Block 8, Evan's 2nd Bridge Addition, Council Bluffs, Pottawattamie County, Iowa,

from its present designation as R-2/Two Family Residential and R-3/Low Density Multi-Family Residential to A-2/Parks, Estates and Agricultural, as set forth and defined in Chapters 15.09, 15.10, and 15.05 of Title 15 "Zoning" of the 2005 Municipal Code of Council Bluffs, Iowa.

SECTION 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. Effective Date. This ordinance shall be in full force and effect from and after its final passage, approval and publication, as by law provided.

PASSED
AND
APPROVED _____

THOMAS P. HANAFAN Mayor

Attest: _____
JUDITH RIDGELEY City Clerk

FIRST CONSIDERATION: January 14, 2008

SECOND CONSIDERATION: _____

PUBLIC HEARING: _____

THIRD CONSIDERATION: _____

Planning Case No. ZC-07-018

Council Communication

<p>Department: Community Development</p> <p>Case #ZC-07-019</p> <p>Applicant: Community Development Department</p>	<p>Ordinance No. <u>5962</u></p>	<p>City Council: 1-14-07 Planning Commission: 12/11/07 First Reading: January 14, 2008 Second Reading: Third Reading:</p>
Subject		
<p>Request of the Community Development Department to rezone Lots 3 through 9, Block 1, Evan's Bridge Addition from C-2/Commercial to R-3/Low Density Multi-Family Residential. These lots are located on the south side of Avenue A, between North 28th and North 29th Streets, as shown on the attached map.</p>		
Background		
<p>The Community Development Department is requesting rezoning of the above described property in order to rezone a vacant, City owned lot (Lot 4) to a residential classification so that it can be sold and developed with a residential structure. The proposed rezoning will also bring five existing residential structures into compliance with the Zoning Ordinance.</p> <p>Land uses surrounding the subject property include various commercial uses to the east and south, residential use to the west and vacant property to the north. Surrounding zoning is shown on the attached map.</p> <p>One property owner included in the rezoning is opposed. Charles Peterson, 2833 Avenue A, wishes his property to remain C-2 because he runs a business out of his home. There has been no response from any property owner within 200 feet.</p>		
Discussion		
<p>In 1928 and 1965, this block was zoned Light Industrial and Wholesale Manufacturing respectively. The block was rezoned to C-2/General Commercial in 1999.</p> <p>The proposed rezoning will bring five residential uses into compliance with the Zoning Ordinance and will allow the vacant City owned lot to be developed with a residential structure.</p> <p>The proposed rezoning is an extension of the existing R-3 zoning to the northeast and northwest and is consistent with the future land use map of the 1994 Comprehensive Plan.</p>		
Recommendation		
<p>The Community Development Department recommends rezoning Lots 3 through 9, Block 1, Evan's Bridge Addition from C-2/Commercial to R-3/Low Density Multi-Family Residential.</p>		
Public Hearing		
<p>Gayle Malmquist, Community Development Department appeared before the Planning Commission in favor of the request. No one appeared before the Planning Commission in opposition.</p>		
Planning Commission to City Council		
<p>The Planning Commission recommends rezoning Lots 3 through 9, Block 1, Evan's Bridge Addition from C-2/Commercial to R-3/Low Density Multi-Family Residential.</p>		
<p>VOTE: Aye 9 Nay 0 Abstain 0 Absent 1 Vacant 1 Motion Carried.</p>		
<p>Attachments: Map showing proposed rezoning area and surrounding zoning.</p> <p>Prepared By: Rebecca Sall, Planning Technician, Community Development Department.</p>		

Prepared by: City of Council Bluffs Legal Department, 209 Pearl Street, Council Bluffs, IA 51503 (712) 328-4620
Return to: City Clerk, 209 Pearl Street, Council Bluffs, IA 51503

ORDINANCE NO. 5962

AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF COUNCIL BLUFFS, IOWA, AS ADOPTED BY REFERENCE IN SECTION 15.02.040 OF THE 2005 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY CHANGING THE DISTRICT DESIGNATION OF CERTAIN GROUNDS, PREMISES AND PROPERTY LOCATED ON THE SOUTH SIDE OF AVENUE "A" BETWEEN NORTH 28TH AND NORTH 29TH STREETS IN COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA, FROM ITS PRESENT DESIGNATION AS C-2/COMMERCIAL TO R-3/LOW DENSITY MULTI-FAMILY RESIDENTIAL, AS SET FORTH AND DEFINED IN CHAPTERS 15.15 AND 15.10 OF THE MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That the Zoning Map of the City of Council Bluffs, Iowa, as adopted by reference in Section 15.02.040 of the Municipal Code of the City of Council Bluffs, Iowa, be and the same is hereby amended by changing the district designation of certain grounds, property and premises located on the south side of Avenue "A", between North 28th and North 29th Streets, as shown on the attachment, and legally described as follows:

Lots 3 through 9, Block 1, Evan's Bridge Addition, Council Bluffs, Pottawattamie County, Iowa,

from its present designation as C-2/Commercial to R-3/Low Density Multi-Family Residential, as set forth and defined in Chapters 15.15 and 15.10 of Title 15 "Zoning" of the 2005 Municipal Code of Council Bluffs, Iowa.

SECTION 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. Effective Date. This ordinance shall be in full force and effect from and after its final passage, approval and publication, as by law provided.

PASSED
AND
APPROVED _____

THOMAS P. HANAFAN

Mayor

Attest:

JUDITH RIDGELEY

City Clerk

FIRST CONSIDERATION: January 14, 2008

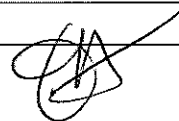
SECOND CONSIDERATION: _____

PUBLIC HEARING: _____

THIRD CONSIDERATION: _____

Council Communication

Department: Community Development Case #ZT-07-006 Applicant: Council Bluffs Industrial Foundation	Ordinance No. <u>5963</u>	Planning Commission: 12-11-07 First Reading <u>01-14-08</u> Second Reading _____ Third Reading _____
Subject/Title Amend Chapter 15.24 'Supplemental Use and Site Development Regulations' of the Municipal Code (Zoning Ordinance) by amending §15.24.040 'Fence Regulations' and clerical/typographical corrections in §15.24.070 'Height exceptions' as shown in Attachment 'A'.		
Background/Discussion The Council Bluffs Industrial Foundation is requesting an amendment to Title 15 of the Municipal Code to allow fencing on industrial sites of 50 acres or more to be 10' high in order to increase security and privacy. The intent is to make it harder for an individual to cross over a taller fence. The current maximum height is 8'. The requested amendment to §15.24.040 follows: 02. General requirements for open space/recreation and industrial districts. (a) A fence placed in any yard shall not exceed eight feet in height, <u>except when the parcel is greater than 50 contiguous acres. If the parcel is greater than 50 contiguous acres, fence height shall be allowed up to ten feet and must be black vinyl coated chain link material, with no barbed wire or concertina wire on the top of the fence.</u> Attachment 'A' shows the recommended amendment suggested by the Community Development Department. It is consistent with the request, although it does not require black for the vinyl coating. A ten foot tall fence could not include 'sharp or pointed projectiles or contain barbed wire strands', however a fence from 6' to 8' in height could have such a security fence as permitted in Item (d) of that section. References to the I-3/Heavy Industrial District are added as shown. When this section was last amended in 1997, the I-3 District did not exist. The change to §15.24.070 'Height Exceptions' corrects an error. The intent of that section is to exempt those structures from the height restrictions. The current language is not correct. New text is <u>underlined</u> . Text to be removed is struck through .		
Recommendation The Community Development Department recommends amending Chapter 15.24 'Supplemental Use and Development Regulations' in Title 15 of the Municipal Code (Zoning Ordinance) as shown in Attachment 'A'. Public Hearing Ron Tekippe, representing Council Bluffs Industrial Foundation, appeared before the Planning Commission in favor of the request. No one appeared in opposition to the request. Planning Commission Recommendation The Planning Commission recommends approval of the amendments to Chapter 15.24 'Supplemental Use and Site Development Regulations' in the Municipal Code (Zoning Ordinance) as shown in Attachment 'A'. VOTE: AYE 9 NAY 0 ABSTAIN 0 ABSENT 1 VACANT 1 Motion: Carried		
Attachment: Attachment 'A'		
Prepared by: Gayle M. Malmquist, Development Services Coordinator		



Chapter 15.24

SUPPLEMENTAL USE AND SITE DEVELOPMENT REGULATIONS

Sections:

- 15.24.040 Fence regulations
15.24.070 Height exceptions

15.24.040 Fence regulations. Fences, including masonry walls, vegetation, ornamental iron, chain link, open wood, solid wood or metal, forming a physical barrier, placed on private property, used for any purpose shall conform to the following requirements:

01. General requirements for all zoning districts.
 - (a) No fence placed on any lot shall project over the property line. No fence or obstruction shall be placed in the public right-of-way.
 - (b) The height of a fence shall be measured from the grade on which the fence is placed.
 - (c) The finished side of any fence shall be directed toward the street right-of-way and adjoining properties.
 - (d) No fence or any other obstruction shall be placed within an equilateral triangle having sides of 35 feet each running along the edge of the pavement, or curb if present, of each abutting street. The apex of this triangle shall be at the point of the intersection of the edges of the pavement or curbs of such streets when extended out to a point.
 - (e) No fence shall be placed within 3 feet of a fire hydrant. No fence shall block visibility or access to a fire hydrant from the street.
02. General requirements for open space/recreation and industrial districts.
 - (a) A fence placed in any yard shall not exceed 8 feet in height.
 - (b) In I-2 and I-3 Districts when the parcel is 50 contiguous acres or more, a fence not to exceed 10 feet in height is permitted in the interior, street side and rear yards. In the front yard, the height of the fence shall not exceed 8 feet unless its placement meets the setback requirements for structures. Fencing material for a 10 foot tall fence shall be limited to vinyl coated chain link material with no sharp or pointed projections or barbed wire strands permitted.
 - (bc) Barbed wire fences 0 to 6 feet in height are permitted in A-1 and A-2 districts for agricultural uses only.
 - (ed) Security fences with sharp or pointed projections or containing barbed wire strands are allowed in the A-2, I-1, and I-2 and I-3 Districts if placed atop a conforming fence of at least 6 feet in height, with total fence height not to exceed 8 feet.
 - (de) Electrically-charged fences located within the boundaries of a conforming fence are permitted in A-1, A-2, I-1, and I-2 and I-3

- districts for agricultural uses only.
03. General requirements for residential and commercial districts.
- (a) In a front yard or a street side yard, the height of a fence shall not exceed 4 feet, unless its placement meets the setback requirements for principal and accessory structures.
Exception: Ornamental iron fences located in front or street side yards may exceed 4 foot in height, but are limited to six feet in overall height.
 - (b) No solid fence shall be placed within a front yard or street side yard which creates a safety hazard by obstructing the clear view of pedestrians or vehicles.
 - (c) In an interior side yard or rear yard, the height of a fence, excepting vegetation fences, shall not exceed 6 feet. Fences in residential areas proposed to exceed 6 feet in height shall be reviewed on a case by case basis by the mayor or designee.
 - (d) Security fences with sharp or pointed projections or containing barbed wire strands may be permitted in a C-2 district when placed on top of an otherwise conforming fence, if the following conditions are met:
 - (1) the site shall not abut any residential district; and
 - (2) the use shall comply with all requirements for conforming uses and the site development regulations in a C-2 district.
04. Required fences.
- (a) A fence shall be required where any conforming commercial or industrial use abuts a residential district. The fence shall be provided at the abutting side and rear property lines. A fence shall also be required for any open storage area in an industrial district which blocks all view of the storage area at or beyond the property line. The fence shall be provided by one of the following methods:
 - (1) a wood and/or masonry fence, at least 50% opaque, 6 feet in height;
 - (2) a vegetation fence capable of providing a substantially opaque barrier and attaining a height of 6 feet within 3 years of planting;
 - (3) a landscaped earth berm with a maximum slope of 3 to 1 vertical/horizontal, no more than 6 feet above the existing grade of the property line separating the zoning districts; or
 - (4) any combination of the described methods that achieves a cumulative height of 6 feet.
05. Maintenance. Upon placement of a fence, appropriate measures shall be taken by the fence owner to ensure continued maintenance.

(Ord. #5333; 7/28/97)

15.24.070 Height exceptions. The following types of structures are ~~to~~ not subject to the height limitations of this title: chimneys, church spires, cupolas, elevator shafts, fire and hose towers, observation towers and water towers.

ORDINANCE NO. 5963

AN ORDINANCE to amend Chapter 15.24 “Supplemental Use and Site Development Regulations” of the 2005 Municipal Code of Council Bluffs, Iowa, by repealing and reenacting Section 15.24.040 “Fence regulations” and Section 15.24.070 “Height exceptions”.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Chapter 15.24 “Supplemental Use and Site Development Regulations” of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing and reenacting Section 15.24.040 “Fence Regulations”, to read as follows:

“15.24.040 Fence regulations. Fences, including masonry walls, vegetation, ornamental iron, chain link, open wood, solid wood or metal, forming a physical barrier, placed on private property, used for any purpose shall conform to the following requirements:

(1) General Requirements For All Zoning Districts.

(a) No fence placed on any lot shall project over the property line. No fence or obstruction shall be placed in the public right-of-way.

(b) The height of a fence shall be measured from the grade on which the fence is placed.

(c) The finished side of any fence shall be directed toward the street right-of-way and adjoining properties.

(d) No fence or any other obstruction shall be placed within an equilateral triangle having sides of thirty-five (35) feet each running along the edge of the pavement, or curb if present, of each abutting street. The apex of this triangle shall be at the point of the intersection of the edges of the pavement or curbs of such streets when extended out to a point.

(e) No fence shall be placed within three feet of a fire hydrant. No fence shall block visibility or access to a fire hydrant from the street.

(2) General Requirements For Open Space/Recreation and Industrial Districts.

(a) A fence placed in any yard shall not exceed eight feet in height.

(b) In I-2 and I-3 Districts when the parcel is 50 contiguous acres or more, a fence not to exceed 10 feet in height is permitted in the interior, street side and rear yards. In the front yard, the height of the fence shall not exceed 8 feet unless its placement meets the setback requirements for structures. Fencing material for a 10 foot tall fence shall be limited to vinyl coated chain link material with no sharp or pointed projections or barbed wire strands permitted.

(c) Barbed wire fences zero to six feet in height are permitted in A-1 and A-2 districts for agricultural uses only.

(d) Security fences with sharp or pointed projections or containing barbed wire

strands are allowed in the A-2, I-1 and I-2, and I-3 districts if placed atop a conforming fence of at least six feet in height, with total fence height not to exceed eight feet.

(e) Electrically-charged fences located within the boundaries of a conforming fence are permitted in A-1, A-2, I-1 and I-2 and I-3 districts for agricultural uses only.

(3) General Requirements for Residential and Commercial Districts.

(a) In a front yard or a street side yard, the height of a fence shall not exceed 4 feet, unless its placement meets the setback requirements for principal and accessory structures. Exception: ornamental iron fences located in front or street side yards may exceed four foot in height, but are limited to six feet in overall height.

(b) No solid fence shall be placed within a front yard or street side yard which creates a safety hazard by obstructing the clear view of pedestrians or vehicles.

(c) In an interior side yard or rear yard, the height of a fence, excepting vegetation fences, shall not exceed six feet. Fences in residential areas proposed to exceed six feet in height shall be reviewed on a case by case basis by the mayor or designee.

(d) Security fences with sharp or pointed projections or containing barbed wire strands may be permitted in a C-2 District when placed on top of an otherwise conforming fence, if the following conditions are met:

(i) The site shall not abut any residential district; and

(ii) The use shall comply with all requirements for conforming uses and the site development regulations in a C-2 District.

(4) Required Fences.

(a) A fence shall be required where any conforming commercial or industrial use abuts a residential district. The fence shall be provided at the abutting side and rear property lines. A fence shall also be required for any open storage area in an industrial district which blocks all view of the storage area at or beyond the property line. The fence shall be provided by one of the following methods:

(i) A wood and/or masonry fence, at least fifty (50) percent opaque, six feet in height;

(ii) A vegetation fence capable of providing a substantially opaque barrier and attaining a height of six feet within three years of planting;

(iii) A landscaped earth berm with a maximum slope of three to one vertical/horizontal, no more than six feet above the existing grade of the property line separating the zoning districts; or

(iv) Any combination of the described methods that achieves a cumulative height of six feet.

(5) Maintenance. Upon placement of a fence, appropriate measures shall be taken by the fence owner to ensure continued maintenance.

SECTION 2. That Chapter 15.24 “Supplemental Use and Site Development Regulations” of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing and reenacting Section 15.24.070 “Height exceptions”, to read as follows:

“15.24.070 Height exceptions. The following types of structures are to not subject to the height limitations of this title: chimneys, church spires, cupolas, elevator shafts, fire and hose towers, observation towers and water towers”.

SECTION 3. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. (Ord. 5367 § 1 (part), 1998; Ord. 5333 § 1, 1997, (Ord. 5323 § 4 (part), 1997).

SECTION 4. SEVERABILITY CLAUSE. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 5. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its final passage and publication, as by law provided.

PASSED
AND
APPROVED _____

THOMAS P. HANAFAN Mayor

Attest: _____
JUDITH RIDGELEY City Clerk

First Consideration: January 14, 2008

Second Consideration: _____

Public Hearing: _____

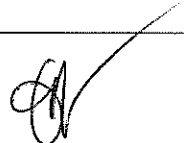
Third Consideration: _____

Planning Case ZT-07-006

Council Communication
January 14, 2008 City Council Meeting

Department: Community Development	Ordinance No.: <u>5964</u>	First Reading: <u>01/14/08</u>
Case/Project No.: N/A	Resolution No.:	Second Reading:
		Third Reading:
		Public Hearing:
Subject/Title		
Repeal of Municipal Code Chapter 2.06 "Partial Property Tax Exemptions for Industrial Property"		
Background/Discussion		
<u>Background</u> In 1980, the Iowa Legislature adopted legislation permitting cities to enact ordinances granting partial property tax exemptions to industrial properties upon which improvements have been made. As a result, City Council adopted Ordinance No. 4319 on May 12, 1980 establishing "Partial Property Tax Exemptions for Industrial Property." This ordinance provided a partial exemption of property taxes for a period of five years (75% - year 1, 60% - year 2, 40% - year 3, 30% - year 4 and 15% - year 5). This ordinance was later amended by Ordinance No. 5427 on November 9, 1998 adding additional uses such as research service facilities, warehouse and distribution centers.		
<u>Discussion</u> This chapter for property tax exemption has been used on a very limited basis and staff recommends repealing the ordinance. Concerning to staff is the fact that this exemption doesn't give the City any control over development, potentially leading to inadequately served or undesirable development. Currently, an eligible property owner would make a direct application to the County Assessor's Office. Property tax abatement can be provided to eligible projects through a variety of other programs, such as urban renewal, urban revitalization and enterprise zone. Not only do these programs offer more flexibility on incentives, they also have a more substantive review process to better ensure sustainable development.		
Staff Recommendation		
The Community Development Department recommends repeal of the Municipal Code Chapter 2.06 "Partial Property Tax Exemptions for Industrial Property."		
Attachments		
Ordinance and Municipal Code Chapter 2.06		

Submitted by: Brenda Carrico, Program Coordinator, Community Development Department
Approved by: Donald D. Gross, Director, Community Development Department



ORDINANCE NO. 5964

AN ORDINANCE to amend Title 2 "Revenue and Finance" of the 2005 Municipal Code of Council Bluffs, Iowa, by repealing Chapter 2.06 "Partial Property Tax Exemptions for Industrial Property" in its entirety.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Title 2 "Revenue and Finance" of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Chapter 2.06 "Partial Property Tax Exemptions for Industrial Property", in its entirety.

SECTION 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. Severability Clause. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions, shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. Effective Date. This ordinance shall be in full force and effect from and after its final passage and publication as by law provided.

PASSED
AND
APPROVED _____

THOMAS P. HANAFAN

Mayor

Attest: _____

JUDITH RIDGELEY

City Clerk

First Consideration: January 14, 2008

Second Consideration: _____

Public Hearing: _____

Third Consideration: _____